

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN

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E.O. 11652: N/A

TAGS: USIRJC, IR

SUBJECT: JOINT COMMISSION: ADMINISTRATIVE SUPPORT ARRANGEMENTS

REF: TEHRAN 9601

1. DEPARTMENT ENCOURAGED TO RECEIVE IRANIAN DRAFT AND CONSIDERS IT DOCUMENT WITH WHICH WE ABLE TO WORK IN ARRIVING AT COMMON POSITION WITH IRANIANS ON ADMINISTRATIVE SUPPORT ARRANGEMENTS.

2. DEPARTMENT HAS DISCUSSED IRANIAN DRAFT WITH MAJOR PARTICIPATING AGENCIES IN WASHINGTON AND HAS READ IT LIBERALLY, IN EFFORT TO RECONCILE DRAFT WITH CERTAIN US LEGAL CONCEPTS
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THAT SHOULD BE UNDERSTOOD BY IRANIANS IN APPROACHING SUBJECT OF ADMINISTRATIVE SUPPORT ARRANGEMENTS. AMONG THESE ARE: A) PREMISE THAT ALL USG EMPLOYEES (AND THOSE PRIVATE PARTIES SUPPLIED BY A USG AGENCY IN CONNECTION WITH A

COOPERATIVE PROJECT) WILL RECEIVE SALARY, ALLOWANCES, AND TRAVEL BENEFITS IN ACCORDANCE WITH STANDARDIZED USG REGULATIONS; B) ALL PAYMENTS TO EXPERTS MUST BE ACCOMPLISHED THROUGH PARTICIPATING US AGENCY AND CANNOT BE MADE DIRECTLY BY THE GOI TO THE EXPERTS; C) "SPECIAL ARRANGEMENTS" MAY BE NEGOTIATED BY THE GOI WITH A PARTICIPATING US AGENCY, BUT,

NOT DIRECTLY WITH THE EXPERTS INVOLVED. WASHINGTON AGENCIES AGREE THAT WITH THESE CONCEPTS IN MINDS OF OURSELVES AND IRANIANS, THE IRANIAN DRAFT CAN BE READ IN AN ACCEPTABLE MANNER.

3. WOULD APPRECIATE EMBASSY'S SUGGESTIONS ON HOW BEST TO APPROACH GOI RE SMOOTHING CONCEPTUAL DIFFERENCES. NEAREST APPROACH WOULD BE TO OBTAIN FROM THE GOI A REVISED DRAFT OF THE GUIDELINES REFLECTING ABOVE-LISTED CONCEPTS IN ALTERING, SOMEWHAT, PROVISIONS OF MEHRAN'S DRAFT. SUCH A REVISION WOULD, IDEALLY, MODIFY THE PROVISIONS DEALING WITH HOUSING AND WOULD MORE CLEARLY ASSIGN PRIMARY RESPONSIBILITY IN THE HOUSING FIELD TO THE GOI (AT THE SAME TIME RECOGNIZING THAT MUCH OF THE ADMINISTRATIVE WORK IN THE HOUSING FIELD IS GOING TO FALL TO THE EMBASSY BY DEFAULT).

4. WE PREFER NOT TO SUBMIT TO THE IRANIANS OUR OWN DRAFT OF THEIR GUIDELINES. SUBMISSION OF US DRAFT COULD SANDPAPER THEIR SENSITIVITIES AND/OR, MORE IMPORTANTLY, COULD RESULT IN FURTHER PROTRACTED DELAY WHILE ALL POTENTIALLY-INTERESTED GOI UNITS REACT TO NEW LANGUAGE (A NEW DRAFT OFFERED BY THE USG COULD, ADDITIONALLY, APPEAR TO PLACE THE WHOLE TEXT ON A GOVERNMENT-TO-GOVERNMENT LEVEL; IT IS BETTER KEPT AS A GUIDE TO IRANIAN MINISTRIES FOR THE CONCLUSION OF AGENCY-TO-AGENCY AGREEMENTS). WE THINK IT PREFERABLE--AND THIS SEEMS TO BE THE APPROACH ENVISIONED BY MEHRAN IN HIS DISCUSSIONS WITH DEPUTY ASSISTANT SECRETARY SOBER--THAT EMBASSY DISCUSS WITH MEHRAN OUR PROBLEMS WITH THE GOI DRAFT AND ELICIT FROM HIM A REVISION THAT IS FULLY SATISFACTORY TO US. WE COULD, ALTERNATIVELY, SUBMIT LIMITED OFFICIAL USE
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TO THE GOI OUR "INTERPRETATIONS" OF MEHRAN'S DRAFT. THIS COULD BE DONE BY LETTER FROM MIKLOS WITH A RETURN LETTER FROM MEHRAN ACCEPTING OUR INTERPRETATIONS. THE TEXT OF A PROPOSED LETTER SETTING FORTH OUR INTERPRETATIONS OF THE IRANIAN DRAFT FOLLOWS. FROM THIS TEXT, THE EMBASSY WILL BE ABLE DISCERN THOSE ASPECTS OF IRANIAN DRAFT THAT GIVE US PROBLEMS. EMBASSY MAY WISH TO DRAW UPON TEXT FOR PURPOSES FURTHER DISCUSSION WITH MEHRAN. IF EMBASSY BELIEVES IT BETTER TO SUBMIT WRITTEN INTERPRETATIONS TO GO IMMEDIATELY, TEXT PROVIDES BASIS FOR COMMUNICATION TO MEHRAN. WE WELCOME EMBASSY'S VIEWS ON BEST WAY TO APPROACH GOI IN THIS MATTER AND ON OUR TREATMENT THE SPECIFIC

PROBLEM AREAS WE SEE IN THE IRANIAN DRAFT.

5. BEGIN TEXT. HIS EXCELLENCY HASSAN ALI MEHRAN, SENIOR VICE MINISTER, MINISTRY OF ECONOMIC AFFAIRS AND FINANCE. DEAR EXCELLENCY: WE ARE PLEASED TO RECEIVE THE PROPOSED TEXT OF THE PROVISIONS THAT THE GOVERNMENT OF IRAN INTENDS SHALL GUIDE ITS MINISTRIES IN NEGOTIATING ADMINISTRATIVE

ASPECTS OF RELATIONS BETWEEN AGENCIES OF OUR TWO GOVERNMENTS PARTICIPATING IN TECHNICAL COOPERATION PROJECTS. WE APPRECIATE THE EFFORT UNDERTAKEN BY YOU IN GAINING APPROVAL FOR THESE GUIDELINES FROM THE IRANIAN GOVERNMENT MINISTRIES THAT MAY BE INVOLVED IN COOPERATIVE PROJECTS WITH AGENCIES OF THE UNITED STATES GOVERNMENT. WE HAVE DISCUSSED THE GUIDELINES AMONG INTERESTED WASHINGTON AGENCIES, AND WE BELIEVE THAT THEY WILL BE USEFUL IN NEGOTIATING ACCEPTABLE AGENCY-TO-AGENCY TECHNICAL COOPERATION ARRANGEMENTS IN FURTHERANCE OF JOINT COMMISSION ACTIVITIES.

CERTAIN REQUIREMENTS OF US LAW COMPEL US TO INTERPRET ASPECTS OF YOUR DRAFT GUIDELINES IN A PARTICULAR MANNER, AND WE SHOULD HOPE TO OBTAIN YOUR CONCURRENCE IN THESE INTERPRETATIONS.

US LAW DOES NOT PERMIT A US GOVERNMENT EMPLOYEE TO AGREE TO SEPARATE EMPLOYMENT ARRANGEMENTS WITH A FOREIGN GOVERNMENT. WE INTERPRET THE PREAMBULAR PARAGRAPH'S REFERENCE TO "SPECIAL ARRANGEMENTS WHICH MAY BE AGREED UPON" TO REFER, LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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THEREFORE, TO ARRANGEMENTS WHICH MAY BE AGREED BETWEEN IRANIAN AND US GOVERNMENT AGENCIES.

LIKewise, OUR LAW DOES NOT PERMIT GOVERNMENT EMPLOYEES TO ACCEPT COMPENSATION IN ANY FORM DIRECTLY FROM A FOREIGN GOVERNMENT. IT IS OUR INTERPRETATION, AS A RESULT, THAT THE DRAFT GUIDELINES' REFERENCES TO PAYMENTS IN FACT OR KIND MADE BY IRANIAN AGENCIES FOR HOUSING, TRANSPORTATION, FRINGE BENEFITS, OR OTHER PURPOSES MEANS PAYMENTS MADE TO THE COOPERATING US GOVERNMENT AGENCY, WHICH WILL, IN TURN, REIMBURSE THE AMERICAN PERSONNEL. SINCE US GOVERNMENT AGENCIES MUST MAKE ALL SUCH REIMBURSEMENTS IN ACCORDANCE WITH US GOVERNMENT STANDARDIZED REGULATIONS, WE INTERPRET THE IRANIAN TEXT'S PARAGRAPH "I. HOUSING 2." REFERENCE TO "THE PERCENTAGE OF THE SALARY WHICH WOULD BE CONSIDERED AS THE HOUSING ALLOWANCE" TO MEAN THE AGREED UPON SUM FOR HOUSING (WHILE ANY SUCH PAYMENT WOULD, OF COURSE, AMOUNT TO SOME PERCENTAGE OF AN EMPLOYEE'S SALARY, THE APPROPRIATE AMOUNT WOULD NOT BE DETERMINED AS A PERCENTAGE OF SALARY, BUT ACCORDING TO THE STANDARDIZED REGULATIONS). WE FURTHER

INTERPRET THE SAME PARAGRAPH'S REFERENCE TO ASSISTANCE BY THE IRANIAN AGENCY IN FINDING HOUSING (WHERE THE AGENCY FINDS IT IMPOSSIBLE TO PROVIDE HOUSING) TO INCLUDE THE PROVISION OF FURNISHINGS (WHICH INTERPRETATION IS CONSISTENT WITH THE EARLIER PART OF THAT PARAGRAPH IN THE CASE WHERE THE IRANIAN AGENCY DOES PROVIDE THE HOUSING). WE UNDERSTAND THE PARAGRAPH "I. HOUSING 2." REFERENCE TO THE RESPONSIBILITY OF THE EXPERT FOR UTILITIES TO MEAN THAT

THE IRANIAN AGENCY WILL NOT UNDERTAKE TO PAY THE UTILITIES CHARGES DIRECTLY; SUCH CHARGES WOULD, PRESUMABLY, BE REIMBURSED TO THE US GOVERNMENT AGENCY UPON ITS PAYMENT, AS A FRINGE BENEFIT ALLOWABLE UNDER THE STANDARDIZED REGULATIONS TO THE EMPLOYEE FOR UTILITIES CHARGES.

IN PARAGRAPH "II. TRANSPORTATION 1.", WE ASSUME THAT ROUND TRIP INTERNATIONAL TRAVEL FOR THE EXPERT AND DEPENDENTS IS INTENDED. WHILE THE AIR FREIGHT ALLOWANCE (PARAGRAPH II. TRANSPORTATION 2.) MAY VARY ACCORDING TO AGENCY-TO-AGENCY AGREEMENT, WE ASSUME THAT THE ALLOWANCE IS NOT, IN ANY CASE INTENDED TO PRECLUDE A LIMITED SURFACE SHIPMENT OF EFFECT LIMITED OFFICIAL USE
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IN ACCORDANCE WITH OUR STANDARDIZED REGULATIONS.

WE UNDERSTAND THE RESERVATION, EXPRESSED IN THE PROPOSED GUIDELINES, THAT IRANIAN GOVERNMENT MINISTRIES MAY FIND IT DIFFICULT AT TIMES TO PREDICT WHETHER OR NOT THEY WILL BE ABLE TO PROVIDE LONG-TERM HOUSING FOR PARTICULAR FOREIGN TECHNICIANS ENGAGED UNDER COOPERATIVE PROGRAMS. AT THE SAME TIME, WE FEAR THAT TECHNICAL PERSONNEL ON SITE IN IRAN WILL NOT BE WORKING TO FULL POTENTIAL, IF THEY ARE UNSURE ABOUT HOUSING ARRANGEMENTS. WE ASSUME, THEREFORE, THAT IRANIAN MINISTRIES WILL MAKE EVERY EFFORT TO INFORM THEIR US COUNTERPARTS, AT THE TIME CONTRACTS FOR TECHNICAL SERVICES ARE SIGNED, WHETHER THE HOST AGENCY WILL BE ABLE TO PROVIDE THE REQUIRED LONG-TERM HOUSING. OTHERWISE, THE INITIAL PERIOD OF UP TO THREE MONTHS OF HOTEL ACCOMMODATION MAY EXPIRE BEFORE LONG-TERM HOUSING (WITH FURNISHINGS) CAN BE SECURED. WE FEEL CERTAIN THAT THE GOVERNMENT OF IRAN WILL BENEFIT CONSIDERABLY IN TERMS OF CONTRACT PERFORMANCE BY U.S. TECHNICIANS TO THE EXTENT THAT THEIR CONCERN ABOUT HOUSING ARRANGEMENTS CAN BE REDUCED.

IF OUR INTERPRETATIONS, NOTED ABOVE, ARE CONSISTENT WITH THE GOVERNMENT OF IRAN'S INTENTIONS IN THESE GUIDELINES, WE SHOULD BE PLEASED TO RECEIVE YOUR CONFIRMING LETTER. WE SHOULD ALSO BE PLEASED TO DISCUSS THESE MATTERS FURTHER AT YOUR CONVENIENCE. SINCERELY, JACK C. MICKLOS, MINISTER COUNSELOR. END TEXT.

6. WE UNDERSTAND THAT PARAGRAPHS "IV. CUSTOM REGULATIONS
1. AND 2." ARE NOT INTENDED TO BE A COMPREHENSIVE STATEMENT
ON THE SUBJECT OF PRIVILEGES AND IMMUNITIES (WHICH, WE EN-
VISION, WOULD TREAT SUCH ISSUES AS EXEMPTIONS FROM LIA-
BILITY FOR IRANIAN TAXES, PERHAPS EXEMPTIONS FROM LIABILITY
TO ARREST, ETC.). WE SUGGEST THAT PRIVILEGES AND IMMUNI-
TIES SHOULD NOT BE DETAILED IN EITHER THESE BRIEF GUIDE
LINES OR IN AGENCY-TO-AGENCY AGREEMENTS. AS REGARDS THIS
SUBJECT (AND SOME WASHINGTON AGENCIES, PERHAPS WITHOUT A

FULL UNDERSTANDING OF THE SITUATION, ARE NERVOUS ABOUT
SENDING PERSONNEL TO WORK IN IRAN IN THE ABSENCE OF A PRO-
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TECTIVE AGREEMENT WRITTEN SPECIFICALLY WITH THEIR PERSONNEL
IN MIND), WE BELIEVE IT SHOULD BE COVERED IN A SEPARATE
GOI-USG AGREEMENT. WE RECOGNIZE THE GOI'S SENSITIVITIES
IN THIS AREA AND WOULD APPRECIATE THE EMBASSY'S RECOMMENDA-
TIONS ON HOW BEST TO PROCEED. IF THE EMBASSY WISHES, WE
SHALL SHORTLY PROVIDE A PROPOSED TEXT OF AN AGREEMENT ON
PRIVILEGES AND IMMUNITIES.

7. WOULD APPRECIATE EMBASSY'S THOUGHTS ON SUBJECT OF AD-
MINISTRATIVE SUPPORT ARRANGEMENTS AND ON OUR APPROACH TO
IRANIAN DRAFT. KISSINGER

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